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JULY 1995

HELENA, MONTANA

VOL. X NO. 2

## PLEASE RETURN LEGISLATIVE FINANCE COMMITTEE

LFC Meets in June...The Legislative Finance Committee met on June 16 in Room 437 of the State Capitol. The Committee heard a number of reports that are discussed below.

Legislative Fiscal Report...The Committee met jointly with the Revenue Oversight Committee to hear the Legislative Fiscal Analyst staff present the Legislative Fiscal Report (formerly the Appropriations Report) for the 1997 biennium. The report consists of three volumes: an overview and two volumes that detail revenue projection assumptions and individual agency budgets. The 1997 biennium will begin with a general fund/school equalization account balance of \$41.1 million. The ending fund balance for the 1997 biennium is estimated to be \$21.8 million. Significant action undertaken by the 54th Legislature includes:

- over \$31.3 million in property and income tax refunds;
- over \$18.3 million in personal property tax reductions;
- an increase in general fund and total expenditures of 8.0 percent and 9.1 percent, respectively. The primary increases are in human services and corrections costs, which increase by over 17.1 percent.
- a reduction of \$28.9 million in present law general fund appropriations from the Executive Budget request, primarily due to reductions in anticipated Medicaid costs; and

- the addition of \$26.2 million in various general funded new proposals, primarily for corrections and various human services activities, including developmentally disabled programs.

In order to alert the Legislature to potential issues and to highlight potential legislative options in the next biennium, the report concludes with an estimate of present law expenditures and revenues in the 1999 biennium. Based upon conservative estimates of the potential growth of present law costs (including Medicaid, corrections, and public school enrollment) in the next biennium and a 3 percent increase in revenues, the report concludes that the 1997 Legislature will face a potential budget shortfall of about \$90 million.

The report details several other fiscal policy issues addressed by the 1995 Legislature, including all tax policies and initiatives, public school funding, and the state employee pay plan. The overview has been mailed to all legislators. Volumes I and II, revenue projections and agency budgets, are available to all legislators upon request. All three volumes are being distributed to agencies. Interested members of the public may purchase any or all three volumes through the Legislative Council.

Update on SJR 23...Bob Person, Executive Director of the Legislative Council, updated the Committee on SJR 23, which calls for an interim committee to study the laws governing state fiscal and personnel management and to present a report to the 55th Legislature and the Governor with options for consideration. The resolution calls for the participation of the Legislative Council and LFA staffs, as well as several other legislative and executive branch organizations. The plan will require potentially significant staff resources. Mr. Person indicated that task groups would be formed, and that Lee Heiman and Dave Bohyer from the Legislative Council would be heading up the project.

Budget Amendments...The Committee reviewed 3 budget amendment requests, adding \$5.5 million in federal and proprietary spending authority. The Committee determined that the requests met all statutory budget amendment criteria and also noted that, with the passage of SB 398, the Committee would no longer review all budget amendment requests.

Personal Services Contingency Report...The Committee heard a report by LFA staff outlining the Office of Budget and Program Planning's allocation of the 1995 biennium personal services contingency. The contingency was appropriated by the Legislature to provide a pool of funds for allocation to those agencies that could not meet their vacancy savings or early retirement obligations with existing resources. The Committee noted that several agencies had not fully justified their request of the funds. As the report was informational only, the Committee took no action.

Restructuring Update...Dr. Peter Blouke, newly named director of the new Department of Public Health and Human Services, presented an update on human services reorganization efforts. Dr. Blouke delineated the four primary goals of the reorganization:

- establishment of an organizational structure based on consumer service needs;
- establishment of an organizational structure that will support decentralization of program administration;
- facilitation of client access to services through elimination of administrative barriers; and
- establishment of a logical relationship among programs with clearly delineated lines of communication, authority, and accountability.

Mark Simonich, newly named director of the new Department of Environmental Quality, presented a report on behalf of himself and Bud Clinch, director of the new Department of Natural Resources and Conservation, on natural resources reorganization efforts. Mr. Simonich indicated that the direction of the new department would be to work to find solutions, rather than to undertake a strictly regulatory role.

Legislative Branch Reorganization Update...Legislative Fiscal Analyst Clayton Schenck provided the Committee with an update on legislative branch reorganization efforts, including the proposed branch classification and pay proposals submitted by the current legislative directors. The Legislative Council must approve a classification and pay proposal for the branch by October 1. The Legislative Finance Committee (LFC) must concur in the plan adopted by the Legislative Council. Because the Legislative Council has not met to discuss and act on this issue, and because the deadline is prior to the next meeting of the LFC, the Committee voted to delegate authority to act on its behalf to its Management Advisory Committee to reach concurrence with the plan adopted. The Committee also voted to recommend to the Legislative Council that the pay grade for all three directors - the Council Executive Director, the Legislative Fiscal Analyst, and the Legislative Auditor - be the same.

Subcommittee Restructuring Proposal...Staff presented a proposed plan for a minor reorganization of the alignment of appropriations subcommittees. The change was proposed primarily as a result of the impacts of reorganizations enacted by the Legislature and the resulting increase in Human Services and decrease in Institutions and Public Safety subcommittees workloads. The Committee voted to recommend the following to legislative and appropriations leadership:

- move the Department of Labor from Human Services to Institutions and Public Safety;
- move the Public Service Commission from Natural Resources and Commerce to Institutions and Public Safety;
- move the Judiciary from General Government and Transportation to Institutions and Public Safety; and
- move the cultural education agencies (Montana Arts Council, Montana State Library, and Montana Historical Society) from Institutions and Public Safety to Education.

LFA Proposed Workplan...The Committee approved the proposed LFA workplan for the coming biennium. Staff will undertake a number of projects, including several required in either ongoing or new legislation.

To Meet in October...The Committee will next meet on October 13, 1995.

## INTERIM COMMITTEE ASSIGNMENTS

House and Senate Appoint Members...The Speaker of the House and the Senate Committee on Committees have appointed the following legislators to interim legislative committees.

### TAXATION TASK FORCE

Sen. Gerry Devlin (R)	Rep. Alvin Ellis, Jr. (R)
Sen. Mike Foster (R)	Rep. Dick Simpkins (R)
Sen. Dorothy Eck (D)	Rep. Diana Wyatt (D)
Sen. Barry Stang (D)	Rep. David Ewer (D)

### JUVENILE JUSTICE AND MENTAL HEALTH STUDY COMMISSION

Sen. Mike Sprague (R)	Rep. Brad Molnar (R)
Sen. Mike Halligan (D)	Rep. Linda McCulloch (D)

### OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

Sen. Jim Burnett (R)	Rep. Liz Smith (R)
Sen. Don Hargrove (R)	Rep. Loren Soft (R)
Sen. Vivian Brooke (D)	Rep. Vicki Cocchiarella (D)
Sen. Dorothy Eck (D)	Rep. Beverly Barnhart (D)

## COMMITTEE ON RETIREMENT ISSUES

Sen. Casey Emerson (R)	Rep. Betty Lou Kasten (R)
Sen. John Hertel (R)	Rep. Bill Wiseman (R)
Sen. Sue Bartlett (D)	Rep. Carolyn Squires (D)
Sen. Bill Wilson (D)	Rep. Pat Galvin (D)

## STUDY OF STATE MANAGEMENT SYSTEMS

Sen. Del Gage (R)	Rep. Karl Ohs (R)
Sen. Mack Cole (R)	Rep. Peggy Arnott (R)
Sen. Greg Jergeson (D)	Rep. Mike Kadas (D)
Sen. Dorothy Eck (D)	Rep. Deb Kottel (D)

## POSTSECONDARY EDUCATION POLICY AND BUDGET

Sen. Arnie Mohl (R)	Rep. Steve Vick (R)
Sen. Daryl Toews (R)	Rep. Don Holland (R)
Sen. Greg Jergeson (D)	Rep. Ray Peck (D)
Sen. Mignon Waterman (D)	Rep. Carley Tuss (D)

## SUBCOMMITTEE ON FOREIGN INVESTMENT DEPOSITORY

Sen. Mike Sprague (R)	Rep. Dan Fuchs (R)
Sen. John Hertel (R)	Rep. Paul Sliter (R)
Sen. Barry Stang (D)	Rep. Ray Peck (D)
Sen. Chris Christiaens (D)	Rep. Jon Ellingson (D)

## STUDY OF LEGISLATIVE COMMITTEE MINUTES

Council to Study Legislative Committee Minutes...At its May 22 meeting, the Legislative Council agreed to serve as the study committee for Senate Joint Resolution No. 4: a study of legislative committee minutes. The purpose of the study is to examine the uses of and the needs for high-quality and timely minutes of legislative committees; to propose a definition of the components of committee minutes; and to examine and assess the efficiency and cost-effectiveness of alternative means of producing committee minutes, including the application of available technology. Legislative Council staff will conduct the study with the assistance of the State Librarian, the State Law Librarian, the State Archivist, current and former Secretaries of the Senate and Chief Clerks of the House, and persons knowledgeable about available technology pertinent to the study.

For more information about the study or to be included on the interested persons' list, please contact Connie Erickson at the Legislative Council, 444-3084.

## JUVENILE JUSTICE AND MENTAL HEALTH STUDY COMMISSION

Commission Hears Guest Speaker...The Juvenile Justice and Mental Health Study Commission met in Helena on June 21. The members of the Commission took advantage of an opportunity to meet before the start of the interim to hear Kay Pranis of Minnesota speak on "Balanced Approach and Restorative Justice".

Commission Elects Officers...The Commission elected Senator Mike Halligan as the Presiding Officer and Jani McCall from Youth Dynamics, Inc. in Billings as the Vice Presiding Officer. The Commission staff includes Susan Fox, researcher, Valencia Lane, attorney, and Lois O'Connor, secretary.

Commission Schedules Future Meetings...The Commission has scheduled its first official meeting for July 31 and August 1 in Miles City. The Commission will tour the Pine Hills facility; receive overviews of the juvenile justice and mental health systems in the state; and hear testimony from the public and from youth corrections, mental health, and youth services providers in the region.

Future meetings include a conference in Whitefish, a meeting in Kalispell in October, and a meeting in Billings, tentatively scheduled for January 1996.

If you have any questions or wish to be placed on the mailing list call Susan Fox at (406) 444-3064.

## SUBCOMMITTEE ON FOREIGN INVESTMENT DEPOSITORY

Senate Joint Resolution No. 19...SJR 19 calls for an interim study of the feasibility of establishing a state-chartered or state-owned financial institution that would accept and invest foreign deposits. The resolution passed both houses and received the second-highest score in the poll of legislators that was conducted following adjournment of the 54th Legislative Session. The study is expected to entail six meetings over a nine-month period, from August 1995 to March 1996.

Subcommittee to Hold First Meeting...The first meeting of the Subcommittee on Foreign Investment Depository is scheduled for Friday,

August 4 in Room 104 at the State Capitol Building in Helena. The meeting will begin at 9:00 a.m. and conclude at about 4:00 p.m. In addition to the election of a committee chair and the group's review of a study plan developed by the Legislative Council research staff, the meeting agenda will include several brief presentations regarding the general characteristics of "Swiss-style" banking; the federal and state laws that pertain to the establishment, regulation, and taxation of financial institutions; and the historical and contemporary role of foreign investment in Montana's economic development.

Anyone who wishes to be included on the interested persons list for the Foreign Investment Depository Subcommittee is urged to call Stephen Maly at the Legislative Council, (406) 444-3084.

## THE BACK PAGE

When the Republicans swept to power in Washington in 1994, they brought with them a "Contract With America", a list of legislative priorities that they hoped to enact during the 104th Congress. One of the priorities was to end federal mandates to state and local governments. These mandates had been a bone of contention between Washington and the states for a number of years. The National Conference of State Legislatures had lobbied hard over the years to relieve the burden these mandates imposed on state governments. In recent times, many states, including Montana, began proposing legislation to reject federal mandates as a violation of the 10th Amendment to the U.S. Constitution.

On March 22, 1995, President Clinton signed the "Unfunded Mandate Reform Act of 1995" into law. In this month's "Back Page", a guest article from the Advisory Commission on Intergovernmental Relations (ACIR) discusses the Act and the ACIR's role in its implementation.

The ACIR is a permanent national bipartisan body representing the executive and legislative branches of federal, state, and local government and the general public. The ACIR addresses specific issues and problems, the resolution of which would produce improved cooperation among the levels of government and more effective functioning of the federal system. One of the long-range efforts of the ACIR has been to seek ways to improve federal, state, and local governmental practices and policies to achieve an equitable allocation of resources and increased efficiency and equity.

## ACIR LAUNCHES REVIEW OF EXISTING FEDERAL MANDATES

The Advisory Commission on Intergovernmental Relations (ACIR) has launched a comprehensive review of existing federal mandates on state, local, and tribal governments, as directed by the "Unfunded Mandate Reform Act of 1995" (P.L. 104-04). In the first such comprehensive study ever undertaken on all federal mandates, ACIR will make recommendations to the President and the Congress regarding potential retention, modification, suspension, or termination of specific existing federal statutes and regulations. Over the next year, the Commission will issue recommendations for public review and comment and hold public hearings on federal mandates. The final report and recommendations will be submitted in March 1996.

ACIR Chairman William F. Winter, presenting the President at the signing ceremony at the White House on March 22, said, "ACIR is proud to have had a role in formulating this legislation and now to have the official responsibility of helping to implement it." He emphasized that the new law "is a dramatic example of our political system operating at its best. Our federal system can function effectively only as it operates as an intergovernmental partnership."

According to ACIR Executive Director Bill Davis, "the Commission is seeking broad and active participation in the mandates review by local, state, and federal legislative and executive officials and private sector groups and individuals in carrying out its responsibilities under the provisions of the new law."

In addition to the existing federal mandate review, P.L. 104-04 requires ACIR to review the role of state mandates on local governments; report annually on judicially created federal mandates; and conduct a feasibility study of methods for calculating the costs and benefits of existing federal mandates. The ACIR Mandates Committee, which will guide the ACIR's work on these studies, is composed of federal, state, and local officials.

The first step in ACIR's work will be to establish criteria for evaluating existing mandates. Proposed criteria were published in the Federal Register for public review and comment by May 22, with final criteria to be issued on July 8, 1995. The "Unfunded Mandate Relief Act" requires ACIR to look specifically at how statutes and/or regulations can be amended to:

- allow greater flexibility for state, local, and tribal governments in complying with specific federal mandates;
- reconcile federal mandates that impose contradictory or inconsistent requirements;
- terminate federal mandates that are duplicative, obsolete, or lacking in practical utility;
- suspend temporarily federal mandates that are not vital to public health and safety;
- consolidate or simplify mandates, or their planning or reporting requirements, to reduce duplication and facilitate compliance;
- establish common definitions or standards to be used in complying with federal mandates; and

- mitigate negative impacts of mandate relief for governments on the private sector and evaluate the feasibility of applying such relief to private sector entities.

The definition of federal mandate in the law is "any provision in a statute or regulation or any Federal court ruling that imposes an enforceable duty upon state, local, or tribal governments, including a condition of Federal assistance or a duty arising from participation in a voluntary federal program." The law also requires that ACIR give highest priority to federal mandates that are the subject of current judicial proceedings, such as the Brady Bill, the Motor Voter Law, and vehicle emissions testing. ACIR is seeking recommendations from state and local officials as to which mandates should be included for priority attention.

ACIR plans to convene broad-based working groups to assist in evaluating existing mandates. Groups will include federal department and agency representatives, associations, individual governors and state legislators, county and city officials, congressional committee staff, private sector groups, and individuals from universities and research organizations. Each group will be assigned a subset of federal statutes from the mandates inventory published by the National Conference of State Legislatures.

The Act also requires ACIR to undertake a separate investigation of the role of unfunded state mandates on local governments. This report does not require recommendations. The law defines state mandates as "any provisions in a State statute or regulation that imposes an enforceable duty on local governments, the private sector, or individuals, including a condition of State assistance or a duty arising from participation in a voluntary State program."

In addition, ACIR is directed to prepare a report, by July 1995, describing federal court decisions in calendar year 1994 in which a state, local, or tribal government was required to "undertake responsibilities or activities, beyond those such government would otherwise have undertaken, to comply with Federal statutes and regulations." Beginning in 1996, ACIR is required to make this report annually by March 15 on cases decided in the preceding year. This will require a careful search of all federal court cases involving governments in a dispute over federal laws and an analysis to determine the extent to which each judicial decision requires the government to do more than it would have without the lawsuit.

Finally, ACIR is required "to examine the measurement and definition issues involved in calculating the total costs and benefits to State, local, and tribal governments of compliance with Federal laws." The study is to report, by September 1996, on (1) the feasibility of measuring direct and indirect costs and benefits of mandates and (2) how to measure

direct and indirect benefits of federal financial assistance and tax benefits to state, local, and tribal governments.

Suggestions and inquiries about ACIR's federal mandates review should be directed to Bill Davis, ACIR Executive Director (202-653-5143) or Phil Dearborn, Mandates Studies Director (202-853-5538) at ACIR, 800 K Street, NW, Suite 450 South, Washington, D.C. 20575.



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

### JULY

July 4, Independence Day, holiday

July 7 and 8, Legislative Council, Yellow Bay on Flathead Lake

July 31 and August 1, Juvenile Justice and Mental Health Study Commission, Miles City

### AUGUST

August 4, Subcommittee on Foreign Investment Depository, Room 104, 9 a.m.

August 10, Committee on Indian Affairs, Room 104, 10 a.m.

### SEPTEMBER

September 4, Labor Day, holiday

September 29, Revenue Oversight Committee





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